

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESAL PRICE LITIGATION
THIS DOCUMENT RELATES TO CLASS 1 J&J

Master Civil No. 01-cv-12257

MDL No. 1456

Judge Patti B. Saris

CLASS 1 PLAINTIFFS' STATUS REPORT REGARDING J&J DEFENDANTS

The Class 1 Plaintiffs, by undersigned Class Counsel, respectfully submit the following Status Report regarding remaining matters related to the J&J Defendants.

1. On March 26, 2010, Don Haviland filed a Notice of Voluntary Dismissal, seeking to dismiss without prejudice the "individual claims" of both of the former Class 1 representatives for the J&J Defendants. *See* Dkt. No. 7013. Because Mr. Haviland filed that Notice, and thus deprived the Class of its representatives, this Court vacated the hearing on J&J's post-remand motions for summary judgment previously scheduled for March 31, 2010. After Mr. Haviland eventually filed a motion to withdraw the former Class 1 representatives (Dkt. No. 7136), this Court granted the motion, but held that "plaintiffs may not serve as class representatives in any proposed class action involving AWP. In addition, Mr. Haviland may not serve as class counsel in any federal litigation involving challenges to AWP." This Court denied Class Counsel's Motion for Sanctions Against Don Haviland on the same day.

2. With the above issues now fully resolved, the only remaining issues are the J&J Defendants' Post-Remand Motions for Summary Judgment. They are fully briefed. *See* 6667-6672, 6834-6836, 6869-6870, 6947 and 6977. The Class 1 Plaintiffs believe that these Motions

may be again set for oral argument.¹ Decisions on these motions will likely facilitate the resolution of the Class 1 Plaintiffs' claims against the J&J Defendants.

DATED: June 28, 2010

Respectfully submitted,

By: /s/ Steve W. Berman

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¹ The parties previously agreed that oral argument should be held. *See* Dkt Nos. 6895, 6896 (granted by Feb. 12, 2010 electronic order).

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CERTIFICATE OF SERVICE BY LEXISNEXIS FILE & SERVE

In re Pharmaceutical Industry Average Wholesale Price Litigation
Master Case No. 01-cv-12257, MDL 1456

I, Steve W. Berman, hereby certify that I am one of the attorneys for the Class and that, on June 28, 2010, I caused a copy of **CLASS 1 PLAINTIFFS' STATUS REPORT REGARDING J&J DEFENDANTS** to be served on all counsel of record by causing same to be posted electronically via Lexis-Nexis File & Serve.

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